

11/28/07 P.B.# 07-04 CC: M.E. D.C.

New York State Department of Environmental Conservation

Region 3, Division of Environmental Permits

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Alexander B. Grannis
Commissioner

November 21, 2007

Alex J. Zepponi, P.E.
Entec Engineering and Technical Resources, Inc.
535 High Mountain Road
North Haledon, New Jersey 07508

Re: DEC Application No. 3-3348-00085/00003 (Protection of Waters/Dam Safety)
Benedict Pond Proposed Residential Development -Repair Benedict Pond Dam (Class B)
Town of New Windsor, Orange County

NOTICE OF INCOMPLETE APPLICATION (Second Notice)

Dear Mr. Zepponi:

We received additional materials November 15, 2007 in support of the above application to construct repairs to the existing dam on Benedict Pond in the Town of New Windsor. The repair is being undertaken in conjunction with the proposed Benedict Pond development of 120 residential units (townhomes) and associated roadways and amenities on a 52-acre parcel. As you are aware, we received your initial submission January 26, 2006, and subsequently transmitted a *Notice of Incomplete Application* (Notice) on March 6, 2006 (copy attached). The attached Notice states that all required DEC permit applications must be submitted concurrently, per UPA provisions. Further, the Notice specifically requests preparation of a Stormwater Pollution Prevention Plan (SWPPP). We received a second submission June 25, 2007 (duplicate of initially submitted materials); however, this submission did not provide the requested information. Your submission of November 15th is also lacking and provides neither the additional application materials nor the SWPPP requested in the March 6, 2006 Notice. Therefore, your application remains Incomplete. No further action can be taken on the application until the information requested above is received.

In addition to the above, Mr. David Harmon of the Dam Safety Unit, has reviewed your initial application and has prepared comments on the submission (copy attached). Please address all items in the attached so that we may continue to process your Dam Safety permit application.

Staff in Environmental Permits have also reviewed submitted materials. Please be aware that Benedict Pond is a NYS protected body of water (Water Index No. H-89-3-P226m; Class B) under Use and Protection of Waters regulations (6 NYCRR Part 608). Therefore, you must apply for an Excavation/Fill permit for any proposed disturbance below mean high water of Benedict Pond.

Further, we could not identify from submitted materials who is applying for permit(s), as the submitted application form was not signed. You had also indicated that the property was sold to a new owner. **Please provide updated applicant contact information.** Also, although it was indicated in submitted materials that "the SEQR process was completed" (copy of Town of New Windsor Planning Board resolution of site plan approval dated 8/11/06), our files contain no record of a lead agency circulation having been conducted, nor do we have copies of other relevant SEQR documents, such as the determination of significance, which is required to be prepared by the lead agency.

Based upon the foregoing, your application remains significantly incomplete and we request that you provide the following information so that application processing may proceed:

1. **Joint Application for Permit Form** - Please complete the application form and have it signed and dated by the applicant (*Item No. 17*). Also, please indicate (by checking appropriate boxes in *Item No. 1* on form) all DEC permits you are applying for (see also *Item No. 4* below). NOTE: Permit application materials are available on the DEC website at: www.dec.ny.gov. Click on "Permits", "Uniform Procedures Act", and then "Application Forms for DEC Permits."
2. **Plan Requirements** - Provide revised plans which show the following:
 - A. A "limits of disturbance" line for all proposed work within the pond (proposed repair of dam, ~~construction of new dock and outfalls from proposed stormwater basins, service spillway,~~ concrete chamber with trash screen, etc.). Dimensions of all such areas must be shown;
 - B. Cross section drawings of all areas of proposed fill and excavation below mean high water within the pond (dam repair, service spillway, concrete chamber with trash screen, outfalls, dock, other). Show dimensions of all such areas and include materials proposed for use as fill. Note that the submitted sketch plan entitled *Section A (Sheet 1 of 2)* for the proposed dam repair does not show sufficient construction detail;
 - C. The pond's edges should be clearly shown on all plans and differentiated from existing features and all proposed work;
 - D. All proposed erosion and sediment controls. We recommend that you avoid grading in areas immediately adjacent to the pond and retain native vegetation around the perimeter of the pond to the maximum extent practicable. Show how stone fill will be installed on the upstream face of the dam and how you will prevent turbidity within the pond during this phase of construction and for construction of the service spillway and chamber (coffer dam, lower pond, turbidity curtain); and
 - E. For any dewatering of work areas that may be necessary (i.e., areas behind coffer dams), show how turbid water will be treated prior to return to the pond. Turbid water should be directed to a staked haybale enclosure or upland vegetated area prior to its return to the pond.
3. **Narrative** - Discuss the following:
 - A. How stone embankment protection will be constructed on the upstream face of the dam;
 - B. All proposed erosion and sediment controls, including dewatering of work areas; and
 - C. Sequence of construction.
4. **Water Quality Certification (WQC)** - The pond is apparently also under the jurisdiction of the Army Corps of Engineers (ACOE) as a federal wetland. Please be aware that a permit will likely be required from the ACOE for any proposed excavation/fill within this federally regulated wetland. Note that if the ACOE issues a permit for the proposed work, a WQC from this Department will also be required. We will process the WQC concurrently with the Protection of Waters permit application, when submitted.
5. **SPDES Stormwater** - Compliance with the SPDES General Permit for Stormwater Discharges from Construction Activities is required for projects that disturb one or more acres of land. Although the actual area of disturbance is not noted in submitted materials, we assume that more

than one acre would be disturbed as a result of construction of 120 residential units with associated roadways. Therefore, a SWPPP must be prepared that conforms with the requirements of this SPDES Stormwater General Permit, and this plan must be submitted along with all required permit applications for concurrent review. Authorization for coverage under the SPDES General Permit is not granted until approval of the SWPPP and issuance of other DEC permit(s).

6. **State Environmental Quality Review Act (SEQR)** - As noted above, we have no information in our files regarding the lead agency circulation for this project. At a minimum, we require that you provide copies of all SEQR documents prepared by the lead agency, Town of New Windsor Planning Board, relating to the proposal (long Environmental Assessment Form, lead agency circulation letter(s), determination of significance, etc.). SEQR regulations 6 NYCRR 617 require that SEQR provisions be satisfied before an application can be deemed complete and before any physical alteration can be initiated.
7. **Threatened and Endangered Species** - According to maps prepared by the NYS Natural Heritage Program, a NYS threatened reptile species, the Timber Rattlesnake, has been recorded near the project site. We have forwarded application information to a Wildlife Biologist of this Department for review. We will advise you whether additional information (habitat assessment) is required regarding this species pending the outcome of this review.

Please provide **four copies** of all information requested above. No further action can be taken on the application until all information requested above is received. Please also be aware that no construction may commence at the site until all DEC permits and approvals have been issued.

Please address all future correspondence to me at the address shown above. You may also contact me at (845) 256-3055 to discuss any questions you may have. You may contact David Harmon of the Dam Safety Section at (518) 402-8185 with technical questions related to the Dam Safety program. Thank you.

Sincerely,



Scott Ballard
Environmental Analyst

Enclosures: Notice of Incomplete Application dated 3/6/06
Memo from Dave Harmon dated 10/15/07 (four pages)

cc w/ enclosures: ACOE, NY District

cc w/o enclosures: V. DeMauro, Entec, Inc.
D. Harmon (3504)
Town of New Windsor Planning Board
Town of New Windsor Town Board